

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KHALID M. KHAN,

Plaintiff,

v.

LANINVER USA, INC.,

Defendant.



18-CV-561 (JLS)

DECISION AND ORDER

Plaintiff Khalid M. Khan commenced this action on May 17, 2018.¹ Dkt. 1. On July 17, 2018, this Court² referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Dkt. 11. This Court previously accepted and adopted Judge Scott's January 9, 2020 Report and Recommendation ("R&R"), which recommended that Khan's breach of contract and contractual indemnification claims be dismissed. Dkt. 62.

On July 28, 2020, Khan filed a second amended complaint, asserting claims of breach of the implied covenant of good faith and fair dealing, and of breach of

¹ This Court assumes the parties' familiarity with the background and facts of this case, outlined in the R&Rs (Dkts. 18, 51, 78) and this Court's prior Decision and Order (Dkt. 62), and does not repeat them here.

² Judge Vilardo was originally assigned to this case and made the referral to Magistrate Judge Scott. Dkt. 11. On February 18, 2020, this case was reassigned to the undersigned. Dkt. 56. On February 18, 2021, this Court ordered the motion to dismiss (Dkt. 67) referred to Magistrate Judge Jonathan W. Feldman. Dkt. 76. On March 5, 2021, the case referral was reassigned to Magistrate Judge Leslie G. Foschio. Dkt. 77.

fiduciary duty. Dkt. 66. Soon after, Defendant filed a partial motion to dismiss as to the first claim. Dkt. 67. Khan opposed the motion. Dkt. 70.

On March 31, 2021, Judge Feldman issued an R&R recommending that the partial motion to dismiss be denied. Dkt. 78. The parties did not object to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).


A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Based on this Court's review and the absence of any objections, the Court accepts Judge Feldman's recommendation to deny the partial motion to dismiss.

For the reasons stated above and in the R&R, Defendant's partial motion to dismiss (Dkt. 67) is DENIED. The case is referred back to Judge Foschio for further proceedings consistent with the referral order of July 17, 2018 (Dkt. 11).

SO ORDERED.

Dated: April 30, 2021
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE